



REGULATORY POLICY

Consolidated Supervision

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List of Acronyms

BCPs	Basel Core Principles for Effective Banking Supervision
CIMA	Cayman Islands Monetary Authority
MAA	Monetary Authority Act
IAIS	International Association of Insurance Supervisors
IOSCO	International Organisation of Securities Commissions



Regulatory Policy on Consolidated Supervision

1. Introduction

- 1.1. This document sets out the Cayman Islands Monetary Authority's (the "Authority" or "CIMA") Regulatory Policy on Consolidated Supervision (the "Policy").
- 1.2. Consolidated supervision is a group-wide comprehensive approach to supervision which includes the assessment and evaluation of the strength of an entire group, while taking into account the group's reputation and financial soundness, as well as the overall risks which may affect the group regardless of whether the risk is identified within the regulated entity, or another entity within the group. It therefore allows for the assessment of the risks posed to a regulated entity by other members of the group to which it belongs. Such risks include, but are not limited to:
 - (1) reputational risk - a damaging loss of confidence if other members of the group get into difficulties;
 - (2) contagion risk - the potential for risks undertaken by other group members negatively affecting the entire group, including the regulated entity;
 - (3) the risk that intra-group transactions, which may not be transparent, may result in inappropriate transfers, especially between regulated and unregulated entities, excessive risk concentrations, and may affect the soundness of regulated entities;
 - (4) the risks arising from conflicts of interest;
 - (5) the risk of supervisory arbitrage where a group can conduct its activities in jurisdictions with varying degrees of regulatory oversight; and
 - (6) the risk of double or multiple gearing i.e., where the same capital is used simultaneously as a buffer against risk in two or more legal entities within the group.
- 1.3. The Authority views consolidated supervision as an integral part of its risk-based approach to supervision and is committed to considering carefully, in relation to each regulated entity, whether there is a need to conduct consolidated supervision in addition to supervision of the individual regulated entity. In this regard, the Authority may decide whether consolidated supervision is required at the licensing stage or at any stage during which the entity remains regulated.
- 1.4. Consolidated supervision may be conducted on either a qualitative or a quantitative basis or including elements of both. Quantitative consolidated supervision is based on consolidated financial returns and financial statements, reflecting an accounting consolidation of the regulated entity with parts or the whole of the group to which it belongs, together with the direct application of consolidated capital adequacy and other prudential requirements.
- 1.5. Consolidated supervision extends beyond accounting consolidation. For instance, in certain cases, accounting consolidation is not meaningful, because of the nature of assets and activities conducted in other parts of a group (e.g., where a non-regulated entity is involved, or where an entity is regulated separately under a different sector). In such cases, it would be desirable for the Authority to undertake a qualitative consolidated supervision of the group as a whole, focusing on the group's general business and the environment in

which it, as well as its business controls, organisation, and management, to evaluate material risks to the financial soundness or reputation of the regulated entity.

- 1.6. The Authority considers consolidated supervision as a complement to and not a substitute for solo supervision as events elsewhere in the group, and the activities of other entities in the group, can negatively impact the regulated entity in ways which consolidated supervision alone cannot detect. For example, intra-group linkages arising from transactions between the regulated entity and other entities in the group can only be revealed through solo supervision.

2. Statement of Objectives

- 2.1. This Policy seeks to ensure that, where the Authority acts as the home or host supervisor with respect to a regulated entity that is part of a group, the regulated entity is subject to effective consolidated supervision. This includes ensuring that the Authority has mechanisms in place to identify, assess and mitigate the risks posed to a regulated entity, and its branches, by other members of a group to which the regulated entity belongs.

3. Statutory Authority

- 3.1. As applicable, this Policy is consistent with:

- (1) the Authority's statutory objectives as prescribed in section 6(2) (a and b) of the Monetary Authority Act ("MAA") which provides that, among others:

In performing its functions and managing its affairs, the Authority shall:
(a) act in the best economic interests of the Islands; and
(b) promote and maintain a sound financial system in the Islands.

- (2) the Authority's statutory objectives as prescribed in section 34(8) of the MAA which provides that:

"The Authority may at all reasonable times, by notice in writing given—
(a) to a person regulated under the regulatory laws;
(b) to a connected person; or
(c) to a person reasonably believed to have information relevant to an enquiry by the Authority,
require that person –
(i) to provide specified information or information of a specified description; or
(ii) to produce specified documents or documents of a specified description,
as it may reasonably require in connection with the exercise by the Authority of its regulatory functions."

- (3) the Authority's statutory requirements as prescribed in any other relevant regulations and/or regulatory acts.

4. Scope of Application

- 4.1. This Policy is applicable to all regulated entities that are part of a group and will be applied in a proportionate manner to the risks posed to a regulated entity by other members of the group to which the regulated entity belongs.
- 4.2. As applicable, the Policy should be read in conjunction with the following:
- (1) Regulatory Policy on the Criteria for Approving Changes in Ownership and Control;
 - (2) Regulatory Policy and Procedure on Fitness and Propriety;
 - (3) Licencing Requirements and other regulatory instruments issued by the Authority from time to time; and
 - (4) The relevant regulatory Acts as defined in the MAA.
- 4.3. References to any Act or regulation shall be construed as references to those provisions as amended, modified, re-enacted, or replaced from time to time.

5. Definitions

- 5.1. The following definitions are provided for the purpose of this Policy:
- 1) **“group”** refers to a “financial group” or “financial conglomerate”.
 - 2) **“financial group”** refers to a group of entities under common control¹ that provide a range of financial services through multiple legal entities, including branches of such legal entities, typically confining their activities to a given sector (e.g., banking, insurance, securities, trust etc).
 - 3) **“financial conglomerate”** refers to any group of entities under common control whose exclusive or predominant activities consist of providing significant services in at least two different financial sectors (banking, securities, insurance).
 - 4) **“group-wide”** refers to throughout the financial group or financial conglomerate.
 - 5) **“parent undertaking”** means, the entity that, directly or indirectly through another entity or entities, controls or exerts dominant influence over an entity.
 - 6) **“overseas regulatory authority”** has the same meaning as defined under the Monetary Authority Act.

6. Authority’s Approach to Consolidated Supervision

- 6.1. As applicable, the objectives envisaged by the Authority for consolidated supervision include but are not limited to:
- 1) understanding the risks (wherever originated, booked, and managed) that emanate from relationships among the members of a group and their impact on the regulated entity;

¹ Under Common Control means two or more entities under common, direct or indirect, ownership or management with power to direct or cause the direction of management or policies of the group of entities.

- 2) confirming the adequacy of systems used to measure contribution to overall group risk and capital;
 - 3) ensuring the integrity of group and solo capital, its effectiveness, location and transferability;
 - 4) monitoring advance indications of difficulty and identifying routes of risk contagion to mitigate its effect on the regulated entity;
 - 5) identifying the “mind and management” that makes the final decisions across a group and where it is located; and
 - 6) taking measures for responding to the above issues as appropriate.
- 6.2. The Authority’s approach to consolidated supervision includes both quantitative and qualitative assessments which are part of its risk-based approach to supervision.
- 6.3. As necessary, when conducting quantitative consolidated supervision, the Authority may set capital and other prudential requirements at both the solo and consolidated levels, against which the regulated entity and its group are monitored.
- 6.4. When conducting qualitative consolidated supervision, the Authority focuses on, among others, the suitability and appropriateness of: corporate structures, risk management, board and management oversight, internal controls, degree of complexity of the group structure, ultimate beneficial ownership, corporate governance, and transparency.
- 6.5. The Authority considers consolidated supervision as a complement to, not a substitute for, solo supervision. Additionally, the Authority notes that its purpose for consolidated supervision is not to supervise all the entities within a group, but rather to ensure that the regulated entity, including its branches, is effectively supervised as a part of its group. Accordingly, the prime focus of the Authority’s supervision always remains on the regulated entity.
- 6.6. Where certain entities in the scope of consolidated supervision are not regulated by the Authority, the Authority will seek to obtain group-wide supervisory outcomes through the regulated entities under its supervision, and/or consultation with other supervisors involved in the supervision of the group to which the regulated entity belongs.

Scope of Consolidation

- 6.7. Broadly, as applicable, the Authority receives prudential returns reflecting consolidated financial statements for a regulated entity incorporating all the relevant entities using standard rules for accounting consolidation.
- 6.8. Subject to the applicable regulatory Acts, the Authority may require a regulated entity to include or exclude an entity from the regulated entity’s consolidated prudential returns if it considers it necessary for the purposes of effective consolidated supervision of the regulated entity. For example, an entity may be excluded from consolidated prudential returns where:
- 1) it is of negligible interest with respect to the objectives of consolidated supervision; or

- 2) its inclusion would be inappropriate or misleading with respect to the objectives of consolidated supervision.

6.9. Any exceptions to the standard rules for accounting consolidation are to be agreed in writing with the Authority.

The Authority as Host Supervisor

6.10. The Authority is generally considered to be the host regulator when the regulated entity is a branch, subsidiary, or affiliate of an entity regulated in a foreign jurisdiction.

6.11. The Authority will verify whether the regulated entity's home supervisor conducts consolidated supervision of the entire group in accordance with standards acceptable to the Authority.

6.12. In making an assessment of whether consolidated supervision is conducted in accordance with standards acceptable to the Authority, the Authority will take into account whether the home supervisor adheres to internationally recognised standards such as those issued by the Basel Committee on Banking Supervision (BCBS), the International Organisation of Securities Commissions ("IOSCO"), the International Association of Insurance Supervisors ("IAIS"), or any other international standards considered appropriate by the Authority. Specifically, the Authority will consider whether the home supervisor receives consolidated financial and prudential information about the group's global operations and has the capability to prevent organisation structures that undermine consolidated supervision.

6.13. In deciding whether to grant a licence, or attach conditions thereto, the Authority as the host supervisor will consider whether:

- (1) the home supervisor has any objections to the establishment of a branch subsidiary, or affiliate in the Cayman Islands;
- (2) the home supervisor has any regulatory concerns with respect to the parent undertaking or its management;
- (3) the branch, subsidiary, or affiliate will be included in the consolidated supervision of the parent undertaking by the home supervisor;
- (4) the home supervisor has any restrictions on cooperating and sharing with the Authority information necessary for effective consolidated supervision of the applicant including, but not limited to, information relating to recovery and resolution planning; and
- (5) any other factors that could hinder effective consolidated supervision of the applicant.

6.14. The Authority will not permit shell banks or the continued operation of shell banks².

² The BCBS defines shell banks as banks that have no physical presence (i.e. meaningful mind and management) in the country where they are incorporated and licensed and are not affiliated to any financial services group that is subject to effective consolidated supervision.

- 6.15. Where a regulated entity is part of a group, the Authority may request the regulated entity to submit financial statements of the parent undertaking. As applicable, the Authority may also seek any necessary additional information pertaining to the parent undertaking from its respective supervisor(s).
- 6.16. The Authority may also require provision of additional qualitative information including those relating to the operational and internal structures of the group and any inherent risks, details to support assessment of the fitness and propriety of significant shareholders, directors and senior managers, corporate governance practices, internal controls and risk management practices.

The Authority as Home Supervisor

- 6.17. The Authority will generally be the home supervisor where:
- (1) the group to which a regulated entity belongs is based in the Cayman Islands and the group is not subject to consolidated supervision by another regulator³.
 - (2) in certain instances, the Authority may not be the group-wide supervisor⁴, but it is the home supervisor of a significant regulated entity (and its sub-group), within a wider group.
- 6.18. In determining whether the Authority should be the group-wide supervisor, the Authority will make the following considerations:
- 1) Whether the group is based in the Cayman Islands and whether the Authority has the statutory responsibility to supervise the head of the group.
 - 2) The location of the group's head office, and, where the head office is not the operational head of the group, the location where:
 - a) the main business activities of the group are undertaken;
 - b) the main business decisions are taken;
 - c) the main risks are undertaken; and
 - d) the group has its largest balance sheet total.
 - 3) Whether the supervisors engaged in the supervision of a group have determined the need for a group-wide supervisor and agreed on the supervisor to take that role.
- 6.19. When the Authority is the home or group-wide supervisor, the Authority will supervise the regulated entity and/or the group on a consolidated basis in accordance with the applicable international standards. This would include, among others, the assessment of risks and capital adequacy of the group considering the input of solo supervisors as appropriate.

³ In these instances, the Authority is both the Home and Group-wide Supervisor.

⁴ The IAIS defines Group-wide supervisor as follows: the supervisor(s) responsible for promoting effective and coordinated supervision of an insurance group including coordinating the input of insurance legal entity supervisors in undertaking the supervision of an insurance group on a group-wide basis, as a supplement to insurance legal entity supervision. For the purposes of this policy, this definition will apply *mutatis mutandis* to other sectors regulated by the Authority.

- 6.20. Where the relevant regulatory act requires a regulated entity to obtain the Authority's consent before establishing a branch, subsidiary, affiliate, or representative office in a jurisdiction outside of the Cayman Islands, the Authority will determine whether consent should be given by assessing factors such as:
- 1) the financial strength of the regulated entity and its group;
 - 2) the appropriateness of the regulated entity's organisation and operational procedures for the effective management of group-wide risks;
 - 3) the adequacy of regulation and supervision in the proposed host jurisdiction considering compliance with internationally recognised standard;
 - 4) whether such consent would contravene public interest or the interests of the regulated entity's customers or creditors; and
 - 5) any other factors as may be considered necessary by the Authority.
- 6.21. It is the Authority's policy that it will not ordinarily grant consent under section 6.20 unless it receives confirmation from the host supervisor that there is no objection to the establishment of the branch, subsidiary, affiliate or representative office by the regulated entity and that the host supervisor will cooperate in the exchange of information with the Authority for the purpose of consolidated supervision. The Authority reserves the right to require a regulated entity to pay for part or all the costs related to the supervision, including on-site inspections, of an overseas branch, subsidiary, affiliate, or representative office.

Off-Site and On-Site Supervision

- 6.22. As applicable, during its supervision of regulated entities that are part of a group, the Authority maintains under close review the scope of on-site and off-site supervision that is appropriate in relation to overseas operations. On-site examinations of material overseas operations may also be conducted, as part of the Authority's risk-based approach to supervision.
- 6.23. Additionally, upon request by an overseas regulatory authority, and where deemed appropriate, the Authority may allow an overseas regulatory authority to conduct an on-site inspection of a Cayman Islands' regulated entity over which the overseas regulatory authority performs consolidated supervision.

Group Reporting and Filing Requirements

- 6.24. In addition to current reporting by regulated entities, the Authority may collect further information to assist in the conduct of group-wide assessments and consolidated supervision. This includes, but is not limited to, information that may come directly from the group-wide supervisor where the Authority does not hold this function.
- 6.25. The Authority may require applicants and regulated entities to submit an organisational chart for the group to which they belong showing the parent undertaking, any subsidiaries, branches, affiliates or holding companies and their respective supervisors, as applicable.

- 6.26. The Authority reserves the right to request any additional information and/or more frequent reporting as it may deem necessary, to conduct consolidated supervision.
- 6.27. Where necessary, the Authority may separately issue further guidelines with regards to group reporting and filing requirements for consolidated supervision purposes.

Home-Host Relationships

International Cooperation

- 6.28. The exchange of information with overseas regulatory authorities is essential for the performance of effective consolidated supervision, including recovery and resolution planning. The MAA imposes a co-operative function on the Authority. Pursuant to that Act, the Authority can exchange information with an overseas regulator if the requirements of the Act are satisfied. Based on these provisions, the Authority regularly requests or provides, on a confidential basis, information about a regulated entity's financial condition, performance, and compliance with relevant laws and regulations.
- 6.29. The Authority's internal procedures for dealing with requests for assistance from overseas regulatory authorities are available in the Authority's Regulatory Handbook, which is available on the Authority's website.

Memoranda of Understanding

- 6.30. Pursuant to the provisions of the MAA, the Authority may enter into memoranda of understanding with overseas regulatory authorities to facilitate information exchange and cooperation for effective consolidated supervision and, as applicable, recovery and resolution planning.

Supervisory Colleges

- 6.31. In line with its risk-based approach to supervision, the Authority works closely with relevant regulatory bodies to oversee Cayman Islands' regulated entities, participating in supervisory colleges either as a home supervisor, or host supervisor, where relevant.
- 6.32. Supervisory colleges provide a key forum for cooperation⁵ and communication between the Authority and overseas regulatory authorities involved in group supervision. Notably, supervisory colleges are established for the fundamental purpose of facilitating supervision of the group as a whole and improving the supervision of regulated entities within the group.
- 6.33. Supervisory colleges are generally led by the regulator responsible for the consolidated supervision of the group. As such, where necessary, the Authority may organise supervisory and crisis management colleges for groups based in the Cayman Islands, and may participate in colleges run by overseas regulatory authorities, provided that the associated foreign groups engage in regulated activities in the Cayman Islands.

⁵ Subject to the applicable local legal systems of the participating authorities.



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